

**STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD**

IN RE: Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities	IOWA ADMIN. CODE 199-31.3(476)
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APPLICATION FOR CONFIDENTIAL TREATMENT

COME NOW Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty Midstates”), and hereby moves the Iowa Utilities Board (“Board”) pursuant to Iowa Code §22.7(3) and (6) and 199 IAC 1.9, and requests that the document further described herein, filed in support of Liberty Midstates’ Response to Second Board Order Requesting Additional Information, which has been filed confidentially herewith, be kept confidential by the Iowa Utilities Board (the “Board”). In support of its Application for Confidential Treatment (“Application”), Liberty Midstates states as follows:

1. Simultaneously herewith, Liberty Midstates has filed a supplemental attachment to its Response to Second Board Order Requesting Additional Information (“Response”). In support of its Response, Liberty Midstates has filed the following document (the “Confidential Document”) under seal with this Application: Customer usage information for Small and Medium Commercial rate groups.
2. The Confidential Document is entitled to be maintained as confidential by the Board pursuant to Iowa Public Records Law, Iowa Code §22.7(3) and (6).
3. The Public Records Law protects from public disclosure “[t]rade secrets

which are recognized and protected as such by law,” as well as “[r]eports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.” Iowa Code § 22.7(3), (6). Iowa Code § 550.2(4) defines “trade secret” to mean “information . . . that . . . [d]erives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by a person able to obtain economic value from its disclosure or use . . . [and] [i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” The Iowa Supreme Court has given §550.2(4) a broad reading and has found that business information in many forms may also fall within the definition of trade secret. *Economy Roofing & Insulating Co. v. Zumaris*, 538 N.W.2d 641, 646-47 (Iowa 1995) (acknowledging the Court’s broad interpretation of the kinds of information which can legally constitute trade secrets).

4. The information contained in the Confidential Document is information that Liberty’s expert witness, Timothy Lyons, and his firm Scott Madden, make every effort to protect from public disclosure. The models contained in the exhibit was developed by Lyons and constitute a trade secret. Therefore, the Confidential Document satisfies the requirements for confidentiality under both Iowa Code § 22.7(3) and 22.7(6).

6. Further, the Confidential Document contains cost and usage information for Liberty Midstates’ customers which, if released to the general public, would give an unfair advantage to existing and potential competitors of Liberty Midstates and constitutes an invasion of the right of privacy for Liberty Midstates’ customers. *National Parts and Conservation Ass’n v. Morton*, 498 F.2d 765, 768 (U.S.C.A. 1974) (holding that one purpose for exceptions to open record laws is to “protect[] persons who submit

financial or commercial data to government agencies from the competitive disadvantages which would result from its publication”). Therefore, the Confidential Document qualifies for an exclusion to the general rule of public access to reports made to governmental agencies, as allowed by Iowa Code § 22.7(6).

7. For all of these reasons, the Board should maintain the confidentiality of the Confidential Document filed under seal with this Application.

8. Attached hereto is the Affidavit in support of this Application executed by an officer of Liberty Midstates, as required by 199 IAC 1.9(6)(b).

WHEREFORE, Liberty Midstates respectfully requests that the Board enter an order granting Liberty Midstates’ Application for Confidential Treatment and directing that the Confidential Document filed under seal herewith be withheld from public inspection pursuant to Iowa Code §§ 22.7(3) and (6) and 199 IAC 1.9(5)a(1).

Dated: November 14, 2016.

Respectfully submitted,

/s/ Rachel T Rowley

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ATTORNEYS FOR LIBERTY UTILITIES

AFFIDAVIT

STATE OF IOWA)
)
COUNTY OF POLK)

I, Christopher D. Krygier, of lawful age and having been duly sworn on oath hereby state as follows:

1. I am the Director of Regulatory & Government Affairs for Liberty Utilities (Midstates Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty Utilities”) and I am authorized to make the following verification on behalf of Liberty Utilities.
2. I have read the foregoing request for confidential treatment and the statements therein are true and correct to the best of my knowledge, information, or belief.

/s/ Christopher D. Krygier

Christopher D. Krygier, Director of Regulatory &
Government Affairs
Liberty Utilities (Midstates Natural Gas) Corp.
d/b/a Liberty Utilities

SWORN TO AND SUBSCRIBED before me on the 10th day of November, 2016.

/s/ Christina Hotle
Christina Hotle, Commission No.: 766525
Notary Public In and For the State of Iowa

My commission expires: February 1, 2017